

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

No. 2:18-md-02323-AB

Kevin Turner and Shawn Wooden, on behalf of
themselves and others similarly situated,

No. 2:12-md-02323-AB

MDL No. 2323

Plaintiffs,

v.

Hon. Anita B. Brody

National Football League and NFL Properties
LLC, successor-in-interest to NFL Properties,
Inc.,

Defendants.

Civ. Action No. 14-00029-AB

THIS DOCUMENT RELATES TO:
ALL ACTIONS

[PROPOSED] ORDER

AND NOW, this ____ day of _____, 2018, upon consideration of Co-Lead Class Counsel Anapol Weiss's Motion for Leave to File Supplemental Memorandum Regarding the Allocation of Common Benefit Fees, and any responses thereto, it is hereby Ordered that the Motion is granted. It is **ORDERED** that Anapol Weiss may file its Supplemental Memorandum Regarding the Allocation of Common Benefit Fees within ____ days of this Order.

Anita B. Brody, J.
United States District Court Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION | No. 2:18-md-02323-AB MDL No. 2323 |
| Kevin Turner and Shawn Wooden, on behalf of themselves and others similarly situated, Plaintiffs, v. National Football League and NFL Properties LLC, successor-in-interest to NFL Properties, Inc., Defendants. | No. 2:12-md-02323-AB MDL No. 2323 Hon. Anita B. Brody |
| THIS DOCUMENT RELATES TO: ALL ACTIONS | Civ. Action No. 14-00029-AB |

**CO-LEAD COUNSEL ANAPOL WEISS' MOTION FOR LEAVE TO FILE
SUPPLEMENTAL MEMORANDUM REGARDING THE ALLOCATION OF
COMMON BENEFIT FEES**

Co-Lead Class Counsel, Anapol Weiss moves this Court for leave to file the attached Supplemental Memorandum Regarding the Allocation of Common Benefit Fees (Ex. A). Good cause exists for leave in that the attached Supplemental Memorandum seeks to address certain issues concerning the allocation of fees which were addressed in this Court's April 5, 2018 Memorandum Opinion.

PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP

Date: May 17, 2018

By: /s/ Gaetan J. Alfano
GAETAN J. ALFANO, ESQUIRE
1818 Market Street - Suite 3402
Philadelphia, PA 19103

Attorney for Anapol Weiss

CERTIFICATE OF SERVICE

Co-Lead Class Counsel Anapol Weiss has served the foregoing Motion on all parties via this Court's Electronic Case Filing System.

Dated: May 17, 2018

PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP

By: /s/ Gaetan J. Alfano
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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**CO-LEAD COUNSEL ANAPOL WEISS' SUPPLEMENTAL MEMORANDUM
REGARDING THE ALLOCATION OF COMMON BENEFIT FEES**

Co-Lead Class Counsel Anapol Weiss, submits this brief Supplemental Memorandum pointing out data variances that materially affect allocating common benefit fees using lodestars and multipliers. The Court, in its April 5, 2018 Opinion, Dkt. 9860, performed a cross-check which justified awarding the entire available fund. The Court utilized a uniform hourly rate for attorneys and other professionals across all the firms as well as a universal 2.96 multiplier. In doing so, the Court took issue with the moving party's failure to apply consensus rates for all partners, associates, and paralegals. *Fee Op.*, Dkt. 9860, p. 15 (noting correctly that in the leadership formation documents, counsel had previously "reached a consensus to establish reasonable uniform hourly rates for all partners, associates, and paralegals conducting work that benefits all plaintiffs for the purpose of reimbursement for fees from the Common Benefit Fund"). At least, in this respect, the calculation was unreasonable. *Id.* ("Though the hours

submitted are reasonable, the billing rates are not. It is not reasonable that the partner rates submitted by some firms are more than twice the rates submitted by other firms.”). Using different rates affects lodestar calculations. Anapol Weiss’s (“Anapol”) senior partner hourly rates were set at \$650.00, which is at the lower end of the spectrum of the submitted hourly rates. In fact, the Anapol rate, \$650.00 an hour, is only slightly higher than the \$623.05 blended rates of all partners, associates, and paralegals used for cross-check purposes. *Id.* at 16. Applying that blended rate to all of Anapol’s 4,241.20 professional hours, increases the firm’s lodestar to \$2,642,479.60. Applying \$925.00 for senior partner time, with similar adjustments for less senior professional work, increases the lodestar to \$2,585,738.00 from the \$1,857,436.00 presented in the petition.

The second variable is the multiplier. Applying the Court’s blended multiplier of 2.96 to a blended rate lodestar of \$2,642,479.00 yields an allocation of \$7,821,737.84. Many of the lawyers presenting argument on May 15, 2018 lauded Anapol’s work and role in forging this historic settlement. For this reason, the firm’s multiplier ought to be closer to the multiplier of Seeger Weiss. Using the same multiplier yields an award of slightly more than \$10,000,000. Given these objective variations, Anapol respectfully suggests the methodology in its Proposed Alternative Methodology for the Allocation of Common Benefits fees, filed on October 27, 2017, (Dkt. 8701), is proper in this case, where there is a sharp division between: 1) counsel who both performed common benefit work and represented individual clients who stepped up and filed cases against the NFL; and 2) those counsel who either represented few individual clients or none at all.

PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP

Date: May 17, 2018

By: /s/ Gaetan J. Alfano

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